

## RECIPROCAL TRADE

*Agreement and exchange of notes signed at Caracas November 6, 1939*<sup>1</sup>

*Proclaimed by the President of the United States November 16, 1939*

*Ratified by Venezuela July 24, 1940*

*Proclamation and ratification exchanged at Washington November 14, 1940*

*Supplementary proclamation by the President of the United States November 27, 1940*

*Entered into force provisionally December 16, 1939;*<sup>2</sup> *definitively December 14, 1940*

*Supplemented by agreement of August 28, 1952*<sup>3</sup>

*Modified by agreements of July 15 and 23, 1963,*<sup>4</sup> *and June 26, 1972*<sup>5</sup>

*Schedule I terminated June 30, 1972;*<sup>6</sup> *schedule II terminated June 30, 1972, with exceptions*<sup>7</sup>

54 Stat. 2375; Executive Agreement Series 180

### AGREEMENT

The President of the United States of America, and the President of the United States of Venezuela, being desirous of strengthening the traditional bonds of friendship between the two countries, of maintaining the principle

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<sup>1</sup> For schedules annexed to the agreement, see 54 Stat. 2383 or p. 10 of EAS 180. For proclamations relating to allocation of tariff quotas on crude petroleum and fuel oil dated Dec. 12, 1939, Dec. 28, 1940, and Dec. 26, 1941, see 54 Stat. 2451, 54 Stat. 2456, 55 Stat. 1393; EAS 191, 192, 226.

<sup>2</sup> A *modus vivendi* in the form of an exchange of notes between the American Ambassador and the Minister of Foreign Affairs was also signed at Caracas Nov. 6, 1939. The provisions of arts. I–XVIII, inclusive, and the two annexed schedules of the *modus vivendi* are identical with the corresponding articles and schedules of the definitive agreement. The *modus vivendi*, according to the terms of art. XIX thereof, entered into force Dec. 16, 1939, supplanted the agreement of May 12, 1938 (EAS 122, *ante*, p. 1138), as extended, and terminated upon entry into force of the definitive agreement.

<sup>3</sup> 3 UST 4195; TIAS 2565.

<sup>4</sup> 14 UST 1901; TIAS 5502.

<sup>5</sup> 23 UST 1213; TIAS 7387.

<sup>6</sup> Pursuant to notice of termination given by Venezuela Dec. 31, 1971, and in accordance with agreement of June 26, 1972 (23 UST 1213; TIAS 7387).

<sup>7</sup> Pursuant to notice of termination given by the United States June 26, 1972, and in accordance with agreement of the same date (23 UST 1213; TIAS 7387).

of equality of treatment in their commercial relations, and of promoting such relations by granting reciprocal concessions and advantages, have agreed to conclude a reciprocal trade agreement, and have designated for this purpose as their Plenipotentiaries:

The President of the United States of America:

His Excellency Frank P. Corrigan, Ambassador Extraordinary and Plenipotentiary of the United States of America to Venezuela;

The President of the United States of Venezuela:

His Excellency Doctor Esteban Gil Borges, Minister of Foreign Relations of the United States of Venezuela;

Who, having exchanged their full powers, found to be in good and due form, have agreed upon the following Articles:

#### ARTICLE I

Articles the growth, produce or manufacture of the United States of America, enumerated and described in Schedule I<sup>a</sup> annexed to this Agreement and made a part thereof, shall, on their importation into the United States of Venezuela, be exempt from ordinary customs duties in excess of those set forth in the said Schedule. The said articles shall also be exempt from all other duties, taxes, fees, charges or exactions, imposed on or in connection with importation, in excess of those imposed on the day of the signature of this Agreement or required to be imposed thereafter under laws of the United States of Venezuela in force on the day of the signature of this Agreement.

#### ARTICLE II

Articles the growth, produce or manufacture of the United States of Venezuela, enumerated and described in Schedule II annexed to this Agreement and made a part thereof, shall, on their importation into the United States of America, be exempt from ordinary customs duties in excess of those set forth and provided for in the said Schedule. The said articles shall also be exempt from all other duties, taxes, fees, charges or exactions, imposed on or in connection with importation, in excess of those imposed on the day of the signature of this Agreement or required to be imposed thereafter under laws of the United States of America in force on the day of the signature of this Agreement.

#### ARTICLE III

The provisions of Articles I and II of this Agreement shall not prevent the Governments of the Contracting Parties from imposing at any time on the importation of any article a charge equivalent to an internal tax imposed in respect of a like domestic article or in respect of a commodity from which the imported article has been manufactured or produced in whole or in part.

<sup>a</sup> See footnote 1, p. 1141.

#### ARTICLE IV

The United States of America and the United States of Venezuela agree that the notes included in Schedules I and II are hereby given force and effect as integral parts of this Agreement.

#### ARTICLE V

Articles the growth, produce or manufacture of the United States of America or the United States of Venezuela, shall, after importation into the other country, be exempt from all internal taxes, fees, charges or exactions other or higher than those payable on like articles of national or foreign origin.

The provisions of this Article relating to national treatment shall not apply to taxes imposed by the United States of Venezuela on cigarettes, but cigarettes originating in the United States of America shall, after importation into the United States of Venezuela, be exempt from all internal taxes, fees, charges or exactions other or higher than those in effect on the day of the signature of this Agreement.

The provisions of this Article shall not apply to alcoholic beverages.

#### ARTICLE VI

Articles the growth, produce or manufacture of the United States of America enumerated and described in Schedule I and articles the growth, produce or manufacture of the United States of Venezuela enumerated and described in Schedule II shall be permitted to be imported into the territory of the other country without quantitative restrictions. Nevertheless, should the Government of one of the Contracting Parties find it necessary because of special circumstances to establish a quantitative restriction on any such article, it shall notify the other Government. If agreement between the two Governments regarding the restriction is not reached, such other Government may terminate this Agreement on thirty days' written notice. No quantitative restriction established under this Article by the Government of either of the Contracting Parties shall be applicable for a period of thirty days after the public notice of such restriction to imports the invoices for which have been certified prior to the date of such public notice by a consular officer of the Government establishing the restriction.

#### ARTICLE VII<sup>9</sup>

In the event the Government of the United States of America or the Government of the United States of Venezuela regulates imports of any article in which the other country has an interest either as regards the total

<sup>9</sup> For proclamations of Dec. 12, 1939, Dec. 28, 1940, and Dec. 26, 1941, relating to allocation of tariff quota on petroleum and fuel oil, see 54 Stat. 2451, 54 Stat. 2456, 55 Stat. 1393; EAS 191, 192, 226.

amount permitted to be imported or as regards the amount permitted to be imported at a special rate of duty, the Government taking such action shall establish in advance, and give public notice of, the total amount permitted to be imported from all countries during any specified period, which shall not be shorter than three months, and of any increase or decrease in such amount during the period, and if shares are allocated to countries of export, the share allocated to the other country shall be based upon the proportion of the total imports of such article from all foreign countries supplied by the other country in a previous representative period, account being taken in so far as practicable in appropriate cases of any special factors which may have affected or may be affecting the trade in that article.

#### ARTICLE VIII

In the event that the Government of the United States of America or the Government of the United States of Venezuela establishes or maintains a monopoly for the importation, production or sale of a particular commodity or grants exclusive privileges, formally or in effect, to one or more agencies to import, produce or sell a particular commodity, the Government of the country, establishing or maintaining such monopoly, or granting such monopoly privileges, agrees that in respect of the foreign purchases of such monopoly or agency the commerce of the other country shall receive fair and equitable treatment.

#### ARTICLE IX

In the event that the Government of the United States of America or the Government of the United States of Venezuela establishes or maintains, directly or indirectly, any form of control of the means of international payment, it shall, in the administration of such control:

(a) Impose no restrictions or delays on the transfer of payment for any imported article the growth, produce or manufacture of the other country, or on the transfer of payments necessary for or incidental to the importation of such article, greater or more onerous than those imposed on the transfer of payment for the importation of any article from any third country.

(b) Accord unconditionally, with respect to rates of exchange and taxes or surcharges on exchange transactions in connection with payments for or payments necessary and incidental to the importation of any article the growth, produce or manufacture of the other country, and with respect to all rules and formalities relative thereto, treatment no less favorable than that accorded in connection with the importation of any article whatsoever the growth, produce or manufacture of any third country.

In the event that the Government of either country shall make representations concerning the application by the Government of the other country of

the provisions of this Article, the Government of such other country shall give sympathetic consideration to such representations, and if, within thirty days after the receipt of such representations, a satisfactory adjustment has not been made or an agreement has not been reached with respect to such representations, the Government making them may, within fifteen days after the expiration of the aforesaid period of thirty days, terminate this Agreement in its entirety on thirty days' written notice.

#### ARTICLE X

With respect to customs duties or charges of any kind imposed on or in connection with importation or exportation, and with respect to the method of levying such duties or charges, and with respect to all rules and formalities in connection with importation or exportation, and with respect to all laws or regulations affecting the sale, taxation or use of imported goods within the country, any advantage, favor, privilege or immunity which has been or may hereafter be granted by the United States of America or the United States of Venezuela to any article originating in or destined for any third country shall be granted immediately and unconditionally to the like article originating in or destined for the United States of Venezuela or the United States of America, respectively.

Neither the United States of America nor the United States of Venezuela shall establish or maintain any import or export prohibition or restriction on any article originating in or destined for the territory of the other country which is not applied to the like article originating in or destined for any third country. Any abolition of an import or export prohibition or restriction which may be granted even temporarily by either country in favor of an article originating in or destined for a third country shall be applied immediately and unconditionally to the like article originating in or destined for the territory of the other country.

#### ARTICLE XI

Laws, regulations of administrative authorities and decisions of administrative or judicial authorities of the United States of America and the United States of Venezuela pertaining to the classification of articles for customs purposes or to rates of duty shall be published promptly in such a manner as to enable traders to become acquainted with them. Such laws, regulations and decisions shall be applied uniformly at all ports of the respective country which are open to foreign commerce, except as otherwise specifically provided in laws, regulations, and administrative rulings of the United States of America and the United States of Venezuela.

#### ARTICLE XII

In the event that the rate of exchange between the currencies of the United States of America and the United States of Venezuela varies considerably

from the rate of exchange of the said currencies on the day of the signature of this Agreement, the Government of either Contracting Party, if it considers the change in rate so substantial as to prejudice the industry or commerce of the country, shall be free to propose negotiations for the modification of this Agreement or, upon thirty days' written notice to the Government of the other Contracting Party, to terminate this Agreement in its entirety.

#### ARTICLE XIII

The Government of each of the Contracting Parties shall accord the most favorable treatment permitted by law in regard to penalties applicable in the case of errors in the documentation for importation of articles the growth, produce or manufacture of the other country, when the nature of the infraction leaves no doubt with respect to good faith or when the errors are evidently clerical in origin.

The Government of each of the Contracting Parties shall accord sympathetic consideration to the representations which the Government of the other country may make with respect to the operation of customs regulations and quantitative restrictions on imports, the observance of customs formalities and the application of sanitary laws and regulations for the protection of human, animal or plant life or health. If there should be disagreement with respect to the application of said sanitary laws and regulations there shall be established, upon the request of either of the Contracting Parties, a committee of experts on which both Governments shall be represented. The committee, after considering the matter, shall submit its report to both Governments.

#### ARTICLE XIV

The provisions of this Agreement relating to the treatment to be accorded by the United States of America and the United States of Venezuela, respectively, to the commerce of the other country shall apply, on the part of the United States of America, to the continental territory of the United States of America and such of its territories and possessions as are included in its customs territory. The provisions of this Agreement relating to most-favored-nation treatment shall apply to all territories under the sovereignty or authority of the United States of America, other than the Panama Canal Zone.

#### ARTICLE XV

The provisions of this Agreement do not extend to:

(a) The advantages now accorded or which may hereafter be accorded by the United States of America or the United States of Venezuela to adjacent countries in order to facilitate frontier traffic, or advantages resulting from a customs union to which either the United States of America or the United States of Venezuela may become a party so long as such advantages are not extended to any other country;

(b) The advantages now accorded or which may hereafter be accorded by the United States of America, its territories or possessions or the Panama Canal Zone to one another or to the Republic of Cuba, irrespective of any change in the political status of any of the territories or possessions of the United States of America.

The Government of the United States of Venezuela reserves the right to apply, with respect to articles imported into the United States of Venezuela from the Antilles not included in the customs territory of the United States of America, the special surtax applicable to such articles under existing Venezuelan law.

#### ARTICLE XVI

Subject to the requirement that, under like circumstances and conditions, there shall be no arbitrary discrimination by either country against the other country in favor of any third country, and without prejudice to the provisions of the second paragraph of Article XIII, the provisions of this Agreement shall not extend to prohibitions or restrictions (1) imposed on moral or humanitarian grounds; (2) designed to protect human, animal or plant life or health; (3) relating to prison-made goods; (4) relating to the enforcement of police or revenue laws.

Nothing in this Agreement shall be construed to prevent the adoption of measures prohibiting or restricting the importation or exportation of gold or silver, or to prevent the adoption of such measures as either Government may see fit with respect to the control of the export or sale for export of arms, ammunition, or implements of war, and in exceptional circumstances, all other military supplies; and nothing in this Agreement shall prevent the adoption or enforcement of measures relating to neutrality.

#### ARTICLE XVII

In the event that the Government of the United States of America or the Government of the United States of Venezuela adopts any measure which, even though it does not conflict with the terms of this Agreement, is considered by the Government of the other country to have the effect of nullifying or impairing any object of the Agreement, the Government which has adopted any such measure shall consider such representations and proposals as the other Government may make with a view to effecting a mutually satisfactory adjustment of the matter.

#### ARTICLE XVIII <sup>10</sup>

All differences between the High Contracting Parties relative to the interpretation or execution of this Agreement shall be decided by pacific means recognized in International Law, in conformity with treaties and conventions in force between the Parties.

<sup>10</sup> For an understanding regarding art. XVIII, see exchange of notes, p. 1148

## ARTICLE XIX

The present Agreement shall be proclaimed by the President of the United States of America and shall be ratified by the Government of the United States of Venezuela in conformity with the laws of the respective countries. It shall enter into full force thirty days after the exchange of the proclamation and the instrument of ratification, which shall take place in the city of Washington as soon as possible, and shall continue in force until December 15, 1942, unless terminated in accordance with the provisions of Articles VI, IX or XII.

Unless at least six months before December 15, 1942, the Government of either country shall have given to the other Government written notice of intention to terminate this Agreement on that date, the Agreement shall remain in force thereafter, subject to the provisions of Articles VI, IX and XII, until six months from such time as the Government of either country shall have given such notice to the other Government.

In witness whereof the respective Plenipotentiaries have signed this Agreement and have affixed their seals hereto.

Done in duplicate, in the English and Spanish languages, both authentic, at the City of Caracas, this sixth day of November, nineteen hundred and thirty nine.

For the President of the United States of America:

FRANK P. CORRIGAN [SEAL]

For the President of the United States of Venezuela:

E. GIL BORGES [SEAL]

## EXCHANGE OF NOTES

*The American Ambassador to the Minister of Foreign Affairs*

EMBASSY OF THE UNITED STATES OF AMERICA

No. 44

Caracas, November 6, 1939

EXCELLENCY:

I have the honor to inform Your Excellency that it is the understanding of my Government that Article XVIII of the Trade Agreement signed today does not in any manner supplement or modify the provisions of treaties and



conventions in force between the United States of America and the United States of Venezuela.

Accept, Excellency, the renewed assurances of my highest consideration.

FRANK P. CORRIGAN

His Excellency Dr. E. GIL BORGES,  
*Minister for Foreign Affairs,*  
*Caracas, Venezuela.*

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*The Minister of Foreign Affairs to the American Ambassador*

[TRANSLATION]

UNITED STATES OF VENEZUELA  
MINISTRY OF FOREIGN RELATIONS  
Bureau of Economic Policy  
Economics Section

NO. 5183-E

CARACAS, November 6, 1939

MR. AMBASSADOR:

I have the honor to inform Your Excellency that my Government understands that Article XVIII of the Treaty of Commerce signed today in no wise supplements or modifies the provisions of the Treaties and Conventions in effect between the United States of Venezuela and the United States of America.

I avail myself of the occasion to renew to Your Excellency the assurances of my highest consideration.

E. GIL BORGES

His Excellency FRANK P. CORRIGAN,  
*Ambassador Extraordinary and Plenipotentiary*  
*of the United States of America in Venezuela, City.*